

JODIE F. MAESAKA-HIRATA DIRECTOR

MARTHA TORNEY

Deputy Director of Administration

JOE W. BOOKER, JR.

Deputy Director Corrections

KEITH KAMITA

Deputy Director Law Enforcement

No

TESTIMONY ON HOUSE BILL 2736 A BILL FOR AN ACT RELATING TO PROMOTING OF A CONTROLLED SUBSTANCE Jodie F. Maesaka-Hirata, Director Department of Public Safety

Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Tuesday, February 21, 2012, 2:00 PM State Capitol, Room 325

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill 2736 that proposes to extend the prohibition of promoting a controlled substance in, on, or near schools, school vehicles, or public parks to include public housing projects and complexes. House Bill 2736 if passed may pose a deterrent to an individual thinking of manufacturing, distributing or possessing an illegal controlled substance in a public housing complex.

Thank you for the opportunity to testify on this matter.

Testimony of the Office of the Public Defender State of Hawaii to the House Committee on Judiciary

February 21, 2012

H.B. No. 2736: RELATING TO PROMOTION OF CONTROLLED SUBSTANCES

Chair Keith-Agaran and Members of the Committee:

We oppose passage of H.B. No. 2736. This bill would add public housing projects or complexes to the enhanced sentence "offense zones" for the distribution or possession with intent to distribute controlled substances or the manufacture of methamphetamine.

While we understand that the intent of this bill is to protect residents of public housing projects, we believe that emphasis should be placed on the enforcement of existing laws that prohibit the distribution of drugs rather than elevating the penalties for such offenses because they happen to be committed in a certain area. There has been no showing that drug distribution is more common in and around public housing projects than in other urban residential areas such as Waikiki. The effect of this measure could carry the additional burden of treating residents of public housing project with more criminality than someone who is selling drugs out of his/her Kahala residence. We believe that one is not necessarily more sinister than the other due to the location of the offense.

Thank for the opportunity to comment on this measure.



To:

Re:

Representative Karl Rhoads, Vice Chair and Members of the Committee on Judiciary

Board of Directors Pamela Lichty, M.P.H. President From: Jeanne Y. Ohta, Executive Director

Rep. Gilbert Keith-Agaran, Chair

Kat Brady Vice President HB 2736 Relating to Promotion of Controlled Substances

Heather Lusk

Hearing: February 21, 2012, 2:00 p.m., Room 325

Katherine Irwin, Ph.D. Secretary

Position: STRONG OPPOSITION

Michael Kelley, D.Phil.

The Drug Policy Forum of Hawai'i writes in strong opposition to HB 2736 Relating to Promotion of Controlled Substances, which would add public housing projects to areas that provide for enhanced penalties and mandatory minimum sentences for distributing or possessing with intent to distribute controlled substances.

Richard S. Miller, Prof. of Law Emer.

In 2006, the Justice Policy Institute ("Disparity by Design") found that policies such as these which heighten penalties for drug activity near schools, playgrounds, and other designated locations fail to protect youth from drug sales and worsen racial disparity in prisons. While not achieving the intended goals, these laws contribute to unacceptably high levels of racial disparity in the use of incarceration and subject people of color to stiffer punishment.

Robert Perkinson, Ph.D.

The laws blanket densely-populated areas with overlapping zones and are frequently applied to transactions that take place in private residences, far from schools, and with no children present. The reason these laws create disparities is that urban areas have denser populations. The net that is cast by the 750 foot perimeter includes more people in Kalihi than in Kahala. This measure in particular targets poor people by including state housing projects and increases time spent in prison because of the mandatory sentencing provisions.

Donald Topping, Ph.D. Founder 1929-2003

A task force is currently working on recommendations as a result of another Justice Policy Institute report: "The Disparate Treatment of Native Hawaiians in the Criminal Justice System;" and another set of recommendations have been made by the Justice Reinvestment Initiative. The proposals in this measure go against some of these recommendations, in essence they are the sort of policies that add to the problems that those two initiatives are now attempting to correct.

We respectfully request that this measure be held. Thank you for this opportunity to provide testimony on this important matter.

P.O. Box 241042 Honolulu, HI 96824-1042

Phone: (808)-988-4386 Fax: (808) 373-7064

Email: info@dpfhi.org Website: www.dpfhi.org